

The Law Offices of Kissinger N. Sibanda Esq Po Box 714

Livingston, NJ 07039

Tel: 862-250-9684

Email: ksibanda@temple.edu

Website: <https://kissingersibanda.wixsite.com/kensibanda>

October 21st, 2022

Hon. Judge Vernon S. Broderick
Thurgood Marshall

United States Courthouse
40 Foley Square

New York, NY 10007

Re: Mouss Diarra v. City of New York (1:16-cv-07075).

Ref: Defendant's Extension of Time Request

Dear Judge Broderick:

This letter addresses defendant's request for extension of time to file a response to plaintiff's request-for-leave-to-file a motion to reopen.

Defendant's request should be denied because defendant never consulted plaintiff pursuant to the Rules of this Court, Judge Broderick's Rule 1.G states that:

Requests for Adjournments or Extensions of Time. All requests for adjournments or extensions of time must be made in writing and filed on ECF as letter-motions. The letter-motion must state the following: (1) the original due date; (2) the number of previous requests for adjournments or extensions of time; (3) whether these previous requests were granted or denied; (4) whether the adversary consents and, if not, the reasons given by the adversary for refusing to consent; and (5) the specific reasons for the adjournment or extension of time.

Here, defendant only refers to reason (5) in requesting an extension. Docket No. 282.

Furthermore, Defendant was informed of the pendency of this motion in a direct email submitted to this Court, and which is attached as Exhibit: 1 of Docket No. 280. The direct notification to Defendant's personal email is sufficient corroborating proof of knowledge of Plaintiff's request to file a motion-to-reopen and was emailed to both Patricia Miller and Elissa Jacobs.

In addition, defendant, City of NY, has a general notice email mailbox of ecf@law.nyc.gov which informs defendant of all matters pending in the Southern District and in which the City of New York is a party. Ecf@law.nyc.gov, is an email which is not dependent on individual attorney's workload but is notice given to the entire establishment, NY Law Department, and is monitored by supervisors. The docket ECF notice return for Docket No: 278 for this matter reads:

"1:16-cv-07075-VSB-OTW Notice has been electronically mailed to:

Beth Jenifer Hoffman bhoffman@law.nyc.gov
Dara Lynn Weiss WeissDara@gmail.com, ecf@law.nyc.gov
Peter E. Brill pbrill@brill-legal.com
Kissinger Nkosinathi Sibanda ksibanda@temple.edu
Valerie Elizabeth Smith valerie.smith2@usdoj.gov"

Thus, defendant did receive notice of this Court's Docket No. 278 electronically, and Docket No: 282, stating otherwise, is not entirely accurate. Ecf@law.nyc.gov is the email this District is using to notify the City of NY in all its other litigation matters and the system would not fail in this one instance of emailing.

Furthermore, Defendant's request for extension of time should be denied and plaintiff should be granted leave-to-file their motion because Defendant will have sufficient time to respond to plaintiff's motion-to-reopen on the merits as they now have entered a notice of appearance and are aware of the seriousness of plaintiff's intent. Plaintiff's motion-to-reopen stating the merits will afford defendant the opportunity and time to file a proper response and

defendant has not suffered any prejudice by allowing the briefing of this motion to proceed.

Leave-to-file, if granted, does not change the current posture of this matter *until* it is adjudicated on its merits and a favorable order entered for the plaintiff – there is no procedural due process injury towards the defendant.

Respectfully submitted,
/s/ Kissinger N. Sibanda
Kissinger N. Sibanda
Attorney for plaintiff
/KNS/